

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |                              |
|--------------------|------------------------------|
| JORDAN W. BENTLEY, | §                            |
|                    | § No. 72, 2011               |
| Defendant Below-   | §                            |
| Appellant,         | §                            |
|                    | § Court Below—Superior Court |
| v.                 | § of the State of Delaware   |
|                    | § in and for Kent County     |
| STATE OF DELAWARE, | § Cr. ID No. 0409001001      |
|                    | §                            |
| Plaintiff Below-   | §                            |
| Appellee.          | §                            |

Submitted: July 28, 2011  
Decided: August 25, 2011

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 25<sup>th</sup> day of August 2011, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Jordan W. Bentley, filed an appeal from the Superior Court's January 31, 2011 order adopting the report of the Commissioner dated September 17, 2010,<sup>1</sup> which recommended that Bentley's first postconviction motion pursuant to Superior Court Criminal

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<sup>1</sup> Del. Code Ann. tit. 10, §512(b); Super. Ct. Crim. R. 62.

Rule 61 be denied.<sup>2</sup> The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.<sup>3</sup> We agree and affirm.

(2) The record before us reflects that a Superior Court jury found Bentley guilty of Murder in the First Degree, Possession of a Firearm During the Commission of a Felony and Possession of a Deadly Weapon By a Person Prohibited. He was sentenced to life in prison. On direct appeal, this Court reversed Bentley's convictions and remanded the matter to the Superior Court for a new trial.<sup>4</sup> Rather than proceed to trial, Bentley entered into a plea agreement with the State. On October 10, 2008, he pleaded guilty to the lesser-included offense of Murder in the Second Degree. The State dismissed the two weapon charges. On the State's recommendation, Bentley was sentenced to 20 years at Level V, to be suspended after 15 years for decreasing levels of supervision. He did not file a direct appeal.

(3) In this appeal from the Superior Court's denial of his first motion for postconviction relief, Bentley claims that a) his attorney provided

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<sup>2</sup> Because this was Bentley's first postconviction motion and contained allegations of ineffective assistance of counsel, the Superior Court requested Bentley's counsel to file an affidavit responding to the allegations. Super. Ct. Crim. R. 61(g) (1) and (2); *Horne v. State*, 887 A.2d 973, 974-75 (Del. 2005).

<sup>3</sup> Supr. Ct. R. 25(a).

<sup>4</sup> *Bentley v. State*, 930 A.2d 866 (Del. 2007).

ineffective assistance by coercing him into accepting a guilty plea, refusing to subpoena witnesses to testify on his behalf and failing to explore a Robinson plea; b) his arrest was based on a flawed warrant and was illegal; c) the prosecution improperly “coached” witnesses; and d) his extradition was illegal.

(4) The transcript of the guilty plea colloquy that took place on October 10, 2008 reflects that Bentley a) knew he was giving up his right to a re-trial by pleading guilty; b) understood the nature of the charge to which he was pleading guilty; c) admitted to guilt in connection with the charge; d) denied that anyone had coerced him to plead guilty; e) understood the guilty plea form he signed; f) had fully discussed his plea with his counsel; g) was satisfied with his counsel’s representation; and h) entered his guilty plea freely and voluntarily.

(5) Under Delaware law, a voluntary guilty plea constitutes a waiver of any alleged errors or defects occurring prior to the entry of the plea.<sup>5</sup> Because it is clear that Bentley’s guilty plea was voluntary, he is foreclosed from bringing any claims of error occurring prior to the entry of the plea. As such, Bentley’s claims of an illegal arrest, improper “coaching”

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<sup>5</sup> *Downer v. State*, 543 A.2d 309, 311-13 (Del. 1988).

of witnesses by the prosecutor and an illegal extradition have been waived and will not be considered by this Court.

(6) Bentley's remaining claims involve the alleged ineffectiveness of his counsel. In order to demonstrate ineffective assistance of counsel within the context of a guilty plea, the defendant must establish a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty but would have insisted upon proceeding to trial.<sup>6</sup> The record in this case does not reflect that Bentley's guilty plea resulted from professional error on the part of his counsel. Rather, his agreement to plead guilty to the lesser-included charge of second degree murder in exchange for the State's dismissal of the two weapon charges and recommendation of a 15-year minimum mandatory sentence resulted in a clear tangible benefit to Bentley. Under the circumstances presented, Bentley had every reason to enter the plea. We, therefore, conclude that Bentley's ineffectiveness claims are without merit.

(7) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

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<sup>6</sup> *Albury v. State*, 551 A.2d 53, 58 (Del. 1988).

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice